

REMARKS UNDER 37 CFR § 1.111

Formal Matters

Claims 104-147 are pending after entry of the amendments set forth herein.

Claims 104-127 and 138-144 are currently withdrawn from consideration by the Examiner.

Claims 128-137 were examined. Claims 128-130 and 132-134 were rejected.

Claims 131 and 135-137 were objected to, but indicated to contain allowable subject matter.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Office Action

Claims Rejected Under 35 U.S.C. Section 102(b) (Vierra et al.)

In the Official Action of November 13, 2006, claims 128-129 and 132-133 were rejected under 35 U.S.C. Section 102(b) as being anticipated by Vierra et al., U.S. Patent No. 5,807,243. The Examiner referred to Fig. 7 and asserted that Vierra et al. shows a contact member 100 and connecting member 3, wherein the contact member comprises a base member having a central opening and has a hollow interior fluidly connected with the connecting member.

Applicants have amended claim 128 above to further recite that the device comprises a substantially rigid contact member. Support for this amendment can be found, for example, in the specification at page 41, lines 22-23. It is respectfully submitted that the contact member 100 of Vierra et al. is made of a flexible material such as rubber so that it can be collapsed into a configuration suited for introduction through a small percutaneous incision or cannula, see column 9, lines 15-18.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 128-129 and 132-133 under 35 U.S.C. Section 102(b) as being anticipated by Vierra et al., U.S. Patent No. 5,807,243, as being no longer appropriate.

Claims Rejected Under 35 U.S.C. Section 102(b) (Borst et al.)

Claims 128-129 and 132-134 were rejected under 35 U.S.C. Section 102(b) as being anticipated by Borst et al., U.S. Patent No. 5,836,311. The Examiner referred to Fig. 13 and asserted that Borst et al. shows a contact member 81 and connecting member 80, wherein the contact member comprises a base member having a central opening and has a hollow interior fluidly connected with the connecting member.

Applicants have amended claim 128 above to further recite that the device comprises a single tissue contact member formed in a continuous loop. Support for this amendment can be found, for example, in Fig 16A and the description thereof in the specification. It is respectfully submitted that the contact member 81 of Borst et al. does not form a continuous loop as clearly shown in Fig. 13.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 128-129 and 132-134 under 35 U.S.C. Section 102(b) as being anticipated by Borst et al., U.S. Patent No. 5,836,311, as being no longer appropriate.

Claim Rejected Under 35 U.S.C. Section 103(a) (Vierra et al.)

Claim 130 was rejected under 35 U.S.C. Section 103(a) as being unpatentable over Vierra et al., U.S. Patent No. 5,807,243. The Examiner asserted that it would have been an obvious matter of design choice to form the base member of Vierra et al. with an oval shape. In response thereto, Applicants respectfully submit that claim 130 is allowable over Vierra et al. for the same reasons provided above with regard to claim 128, since claim 130 depends from claim 128. It is respectfully submitted that it would not have been obvious to modify the contact member 100 to make it of a substantially rigid material, since this would destroy the disclosed function of being able to collapse the annular ring into a configuration suited for introduction through a small percutaneous incision or cannula, see column 9, lines 15-18.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claim 130 under 35 U.S.C. Section 103(a) as being unpatentable over Vierra et al., U.S. Patent No. 5,807,243, as being inappropriate.

Claims Objected To

The Examiner objected to claims 131 and 135-137 as being dependent upon a rejected base claim, but indicated that these claims would be allowable, if rewritten into independent form to include all of the limitations of the base claim and any intervening claims. In response thereto, Applicants have submitted new claims 145 and 146. Claim 145 recites the limitations of claims 128 (prior to the above amendment of claim 128), 129, 130 and 131. Claim 146 recites the limitations of claims 128 (prior to the above amendment of claim 128), 129, 132, 134 and 135. Applicants respectfully request the Examiner to indicate the allowance of claims 145 and 146 in the next Official Action.

New Claim 147

New claim 147 recites a device for providing additional stabilization to tissue already in contact with a primary stabilization member, said device comprising: at least one tissue contact member adapted to be placed on the tissue in an area bounded by primary tissue contact members, said at least one tissue contact member comprising a base member having a central opening therethrough, said central opening adapted to allow access to a target site on the tissue, said base member further having an outer perimeter portion that cants upwardly from a lower surface of said base member located interiorly of said outer perimeter portion, so that said lower surface located interiorly contacts the tissue while said outer perimeter portion contacts the primary stabilization member; and a connecting member extending from said at least one tissue contact member and adapted to be hand held or fixed to a relatively immovable object.

It is respectfully submitted that none of the art of record discloses, teaches or suggests a base member having an outer perimeter portion that cants upwardly from a lower surface of said base member located interiorly of said outer perimeter portion, so that said lower surface located interiorly contacts the tissue while said outer perimeter portion contacts the primary stabilization member. Support for these features can be found, for example, in the specification at page 40, lines 25-31. The Examiner is respectfully requested to indicate the allowance of claim 147 in the next Official Action.

Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-021DIV.

Respectfully submitted,
LAW OFFICE OF ALAN W. CANNON

Date: _____

2/5/07

By: _____



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